

June 11, 2010

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: WC Docket No. 09-144, Securus Petition for Declaratory Ruling

Dear Ms. Dortch:

On June 10, 2010, Millicorp met with the following persons from the Wireline Competition Bureau and the Office of the General Counsel to discuss the Petition for Declaratory Ruling filed by Securus Technologies, Inc. on July 24, 2009 ("Securus Petition"):

Jennifer Prime – Legal Advisor to Bureau Chief, WCB  
Albert Lewis - Chief, Pricing Policy Division, WCB  
Pamela Arluk - Assistant Chief, Pricing Policy Division, WCB  
Lynne Hewitt Engledow - Pricing Policy Division, WCB  
William Dever - Chief, Competition Policy Division, WCB  
Julie Veach - Deputy General Counsel  
Diane Griffin Holland - Assistant General Counsel for Administrative Law  
Scott Brantner – Intern  
Matthew Friedman - Intern

At that meeting, Millicorp provided the Wireline Competition Bureau and the Office of the General Counsel of the Federal Communications Commission ("Commission") with an update on the issues in this docket as detailed further below and urged the Commission to make a decision on the underlying Petition for Declaratory Ruling filed by Securus Technologies, Inc. ("Securus Petition") and the pending Request for Investigation of the call blocking practices of inmate phone service providers Securus and Global Tel\*Link Corp. filed by Millicorp on July 15, 2009.

Representing Millicorp at that meeting were Timothy Meade, President, Donovan Osborne, Communications Director, and Jon Bernstein and Christianna Barnhart, Bernstein Strategy Group/ policy consultants for Millicorp.

Through its filings with the Commission, Millicorp has demonstrated that the arguments raised by Securus are empty and completely without merit. Furthermore, Securus by design has established a definite pattern of demands of Millicorp that defy all logic and reason. Millicorp therefore must once again bring light to the extensive record on these issues presently before the Commission. Millicorp respectfully requests that the Commission address the issues and end the tedious and exhaustive badgering of Securus.

Millicorp, through its service offering ConsCallHome (CCH), provides its customers interconnected VoIP service either through direct IP-packet switching to a customer's phone device through a broadband connection using an Analog Telephone Adapter (ATA) or a Session Initiation Protocol (SIP) device, and thus complies with all four prongs of the Commission's definition of an "interconnected VoIP service". Millicorp complies with all applicable FCC Interconnected VoIP provider regulations, including E-911, universal service, and the Communications Assistance for Law Enforcement Act (CALEA). In addition, Millicorp goes well beyond what is required by the Commission for interconnected VOIP providers by ensuring that all of its customers are listed in the Directory Listings database (Reverse 411 Lookup). Further, Millicorp's customers can make and receive phone calls to and from the public switched telephone network (PTSN).<sup>1</sup>

Despite the compliance of Millicorp in meeting the four prongs of Commission's definition of an 'interconnected VoIP service' and despite the fact that the Commission recognizes Millicorp as legitimate telephone company, Securus, GTL, and the Federal Bureau of Prisons continue to block Millicorp's customers calls. Securus previously stated that it does not block inmate calls to customers of Vonage and Google Voice. Stephanie A. Joyce, Counsel to Securus, in an *ex parte* to the Commission dated December 14, 2009, quotes from the Securus Petition at 8, as follows:

Securus does not block inmate calls placed to Vonage end users, because, unlike calls re-routed by call diversion schemes, these calls do not pose security risks.....If a law enforcement official reviewed that [call detail record] to find the location of an inmate's called party, the CDR would provide him with usable information. In a word, the call would be, to use the verbiage in the Securus Petition, 'traceable'."

However, this is patently untrue as demonstrated by the following example: Stacey Vulgamott became a customer of Millicorp's CCH service offering solely for the purpose of saving money on telephone calls with her incarcerated loved one. After having problems with Securus blocking calls to her Millicorp-issued telephone number, Ms. Vulgamott set up an ATA Device (provided by Millicorp) in order to utilize CCH's service without further interference by Securus so that she could dial out and receive calls through her broadband connection. A copy of Ms. Vulgamott's affidavit is attached hereto as Exhibit 2, but for the sake of convenience, an excerpt is provided from a Securus affiliate Correctional Billing Service (CBS) InstantService online chat log dated April 17, 2010, between Ms. Vulgamott and "Cassandra W.", a CBS representative:

**Cassandra W:** If you are with VONAGE, MAGIC JACK, CONSCALLHOME, etc... You won't get calls.

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<sup>1</sup> See attached Exhibit 1, Affidavit of Duane Dyar, Vice President, Millicorp.

**Stacey Vulgamott:** I showed proof of ownership of this line.

**Cassandra W:** We don't allow any services that utilize VOIP (Voice Over IP).<sup>2</sup>

In conclusion, it is apparent that while Millicorp has repeatedly demonstrated that it is a legitimate, FCC-registered and compliant telephone company, Securus and Global Tel\*Link will continue their pattern of harassment and call blocking until the Commission addresses the issue at hand.

Millicorp renews its request that the Commission immediately deny the Securus Petition for Declaratory Ruling and prohibit all inmate calling service providers from blocking calls to customers of lawful interconnected VOIP providers such as Millicorp. This disclosure is made in compliance with 47 C.F.R. § 1.1206(a)(3) and (b)(2).

Very truly yours,



William P. Cox

WPC: dac

cc: Jennifer Prime  
Albert Lewis  
Pamela Arluk  
Lynne Hewitt Engledow  
William Dever  
Austin Schlick  
Julie Veach  
Diane Griffin Holland

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<sup>2</sup> See attached Exhibit 2, Affidavit of Stacey Vulgamott, Exhibit B.

EXHIBIT 1

DYAR AFFIDAVIT

### **AFFIDAVIT OF DUANE DYAR**

DUANE DYAR, being of proper age and first duly sworn, herewith states that this Affidavit is submitted in support of the positions of Millicorp that the assertions in this Affidavit are true and correct to the best of his knowledge and belief, and that he would testify orally to the same assertions under oath.

1. I am the Vice President of Operations at Millicorp, whose business address is 9101 West College Pointe Drive, Suite No. 2, Fort Myers, Florida 33919.

2. I have worked at Millicorp since October 2009 and my duties include, in addition to Operations Management, overseeing Millicorp's sales and marketing which includes all products and services.

3. Since early 2008, Millicorp and its predecessor Teleware, LLC have offered an interconnected voice over Internet Protocol (VoIP) service to the friends and relatives of inmates located in federal, state, and local, both public and private confinement facilities throughout the United States under the service offering ConsCallHome (CCH).

4. Millicorp is a legitimate, FCC-regulated and compliant interconnected Voice over Internet Protocol (VoIP) provider whose CCH customers can make and receive phone calls to and from the public switched telephone network (PTSN), no different than Vonage which Securus has stated on more than one occasion is acceptable. See WC Docket No. 09-144 Securus Petition for Declaratory Ruling, letter of Stephanie Joyce, dated February 16, 2010, attached hereto, marked as Exhibit "A" and incorporated herein. Millicorp's customers can make and receive calls from other parties connected to the PTSN whether the customer uses a broadband connection with the

aid of IP-compatible customer premises equipment (CPE), known as an analog telephone adapter (ATA) or Sessions Initiation Protocol (SIP) device or not. Millicorp provides its CCH interconnected VoIP service either through direct IP-packet switching to a customer's phone device or through a broadband connection using an ATA device provided by Millicorp or its customer.

5. Millicorp contracts with a nationally recognized provider for its E911 service, 911 Enable, a Division of ConneXon Telecom, Inc. This Emergency Routing Service (ERS) provides interconnected VoIP providers with E911 connectivity to Public Safety Answering Points across the United States and Canada. Using either a broadband/ATA or PTSN connections, 911 calls are routed to the ERS, which then delivers the call and precise location information to the appropriate PTSN. Therefore, all of Millicorp's service offerings are currently E911 enabled. Additionally, Millicorp complies with Directory Listings (Reverse 411) and the Communications Assistance for Law Enforcement act (CALEA).

6. The Millicorp local telephone number near the relevant prison or jail and the billing name and address for the Millicorp customer are provided for security screening to the inmate confinement facility through the designated ICS provider or the BOP's ITS in advance by the Millicorp customer as required by each inmate confinement facility.

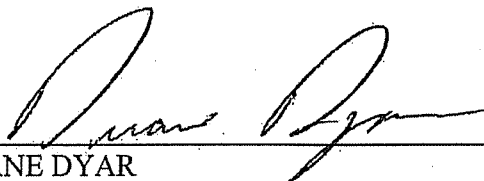
7. Stacey Vulgamott became a Millicorp's CCH customer on or about February 10, 2010 in order to afford telephone calls from a loved one at Allegheny County Jail.

8. On February 12, 2010 Ms. Vulgamott notified Millicorp she was having problems with Correctional Billing Services (CBS), a division of Securus, allowing the inmate calls to go through to the CCH number.

9. Due to the ongoing problems Ms. Vulgamott was experiencing, I sent her an ATA Beta device in order to obviate any ongoing problems with CBS. As part of the setup process we confirmed that Ms. Vulgamott had a physical analog phone hooked up to the ATA device and that she was able to send and receive calls using the ATA device. I was informed by Stacey that on April 4, 2010 a phone line check was run by a CBS agent named Isabel and the line tested clear.

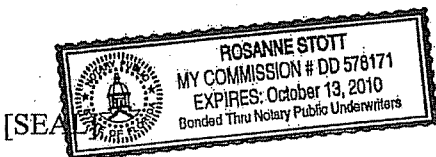
10. Subsequently, and in spite of Ms. Vulgamott full compliance with all CBS rules and regulations, she informed me as recently as April 20, 2010, that CBS continues to block her lines, her loved one is still unable to call her and that she had been informed by CBS that no VoIP calls would be allowed and her phone line will never be unblocked.

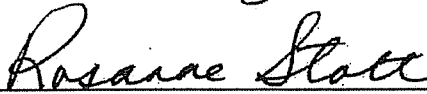
Further Affiant sayeth not.

  
DUANE DYAR

STATE OF FLORIDA                     )  
  ) ss:  
COUNTY OF LEE                     )

SUBSCRIBED AND SWORN to before me this 12 day of May, 2010, by Duane Dyar  
personally known to me



  
Notary Public

My Commission expires: 10/13/10

EXHIBIT A

SECURUS 2/16/10 FCC EX PARTE LETTER

# Arent Fox

February 16, 2010

VIA ECFS

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Stephanie A. Joyce  
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joyce.stephanie@arentfox.com

Re: WC Docket No. 09-144, Securus Petition for  
Declaratory Ruling

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") hereby responds to the *ex parte* letter of Millicorp filed on December 16, 2009 ("Millicorp December Letter"). Millicorp, which as you know operates the call diversion scheme ConsCallHome, inexplicably persists in making assertions to the Commission that simply are disproven by record evidence, and most recently by the *ex parte* letter that Securus filed in this docket on December 14, 2009 ("Securus December Letter"). Securus again will address and refute each of these assertions herein.

1. Millicorp/ConsCallHome Irrefutably Fails Three of the Necessary Criteria for  
Calling Itself "Interconnected VoIP."

Millicorp's continued assertions that it is an interconnected VoIP provider, e.g., December Letter at 1, display an unfortunate lack of candor. Securus demonstrated in its December Letter that Millicorp/ConsCallHome fails three of the four criteria in Rule 9.3 by which the Commission defines "interconnected VoIP provider." Securus December Letter at 2-4 (quoting 47 C.F.R. § 9.3). In the face of that showing, Millicorp now resorts to dissembling and obfuscation in order to present itself as a legitimate service provider.

The ConsCallHome "service" does not require a "broadband connection from the user's location," does not require "Internet protocol-compatible customer premises equipment," or CPE, and cannot be used to "terminate calls to the public switched telephone network," or the PSTN. Securus December Letter at 3-4; *see also* 47 C.F.R. § 9.3. These facts are demonstrated not only in Millicorp/ConsCallHome public statements, but in its own *ex parte* letters dated December 9, 10, and 11, 2009. *See* Securus December Letter at 3. Millicorp/ConsCallHome already has admitted that its "customers" do not need "IP-compatible CPE" and that no broadband connection is needed in order for a called party to receive a diverted inmate call. *Id.*

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(quoting WC Docket No. 09-144, Letter from William P. Cox, Esq. to Marlene H. Dortch, Secretary of the FCC, at 2 n.1 (Dec. 11, 2009)). These facts also appear on the Millicorp website. **Attachment 1** (available at <<http://www.conscallhome.com/how-it-works>>).

Millicorp now attempts to reverse its admission by citing to the inapposite decision in *Cardinal Broadband, LLC*, File No. EB-07-SE-310, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd. 12224 (Enforcement Bur. 2008). Millicorp December Letter at 2. That case, however, only further undercuts Millicorp's position by highlighting yet another requirement with which it is not complying: E911 service.

*Cardinal Broadband* stands for the proposition that an interconnected VoIP provider can be fined for failing to ensure that its end user can originate 911 calls. In concluding that *Cardinal Broadband* indeed is an "interconnected VoIP provider," the Enforcement Bureau noted that *Cardinal* "apparently provides the broadband connectivity itself and, in at least some cases, the customer's CPE." 23 FCC Rcd. at 12227 ¶ 9. To the extent that, as Millicorp emphasizes, the provision of IP-compatible CPE may be "outsource[ed]," Millicorp December Letter at 2, under *Cardinal Broadband* the company would nonetheless be an interconnected VoIP provider because it caused the end user to acquire that CPE. 23 FCC Rcd. at 12228 ¶ 10. As such, the company must provide E911 service; to the best of Securus's knowledge, Millicorp/ConsCallHome cannot satisfy this requirement.<sup>1</sup>

Millicorp/ConsCallHome neither provides nor causes to be provided any CPE at all. It expressly states on its website that "Conscallhome.com works with your existing phone, and requires no expensive set up or equipment purchase." Attachment 1. By this admission, Millicorp/ConsCallHome proves that it fails the "IP-compatible CPE" criterion of Rule 9.3.

Also by this admission, Millicorp/ConsCallHome fails the "broadband connection" criterion of Rule 9.3. The "service" needs only "your existing phone" in order to complete diverted inmate calls to called parties. As such, it is not interconnected VoIP.

Nor does Millicorp/ConsCallHome install or cause to be installed any "broadband connection" or any CPE at the originating end of any inmate call. This fact is indisputable, for Millicorp/ConsCallHome does not hold any contract with any of the correctional facilities that Securus serves. E.g., WC Docket 09-144, Securus Petition for Declaratory Ruling at 9 (July 24,

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<sup>1</sup> Securus's extensive research indicates that the false "local" telephone numbers which Millicorp/ConsCallHome assigns to called parties are Direct Inward Dial ("DID") numbers. DID numbers cannot originate a call. As such, no person could use a telephone number assigned by Millicorp/ConsCallHome in order to dial 911. Thus, were Millicorp/ConsCallHome an "interconnected VoIP provider," it would be subject to fines and penalties just as was *Cardinal Broadband*. 47 C.F.R. § 9.5(b); 23 FCC Rcd. at 12226 ¶ 8.

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2009) (“Securus Petition”).<sup>2</sup> Millicorp thus provides neither a broadband connection nor CPE equipment on the facility side of inmate calls. It is therefore undisputed that Millicorp does not provide or cause to be provided two of the Commission’s four mandatory criteria for being considered “interconnected VoIP.” 47 C.F.R. § 9.3.

Finally, the sworn declaration of Curtis Hopfinger, Director of Regulatory and Government Affairs for Securus, demonstrates that the ConsCallHome “service” cannot enable any person to originate a call and send it to the PSTN. Declaration of Curtis L. Hopfinger ¶¶ 4-5 (Sept. 3, 2009) (appended to Securus Reply Comments dated September 10, 2009). As such, Millicorp/ConsCallHome fails the fourth criterion of Rule 9.3.

It is on this point that Millicorp engages in its most egregious dissembling. Because Millicorp cannot challenge the sworn facts in Mr. Hopfinger’s Declaration, Millicorp rests on the facile point that its “customers” can “make calls to other parties connected to the PSTN.” Millicorp Letter at 2. Of course they can: these end users subscribe to local exchange service from a local exchange carrier (“LEC”). Hopfinger Decl. ¶ 5. They “must have existing telephone service.” *Id.* But it is not Millicorp/ConsCallHome that caused this circumstance, but rather the LEC. Without LEC service, no Millicorp/ConsCallHome “customer” could call anyone, nor could they receive any calls. Millicorp/ConsCallHome must cease its reliance on the work of legitimate carriers — LECs and inmate telecommunications service providers — and to aggrandize to itself the characteristics of these carriers as a means of operation and of justifying its operations.

The question whether Millicorp/ConsCallHome is an “interconnected VoIP provider” must finally close. The answer is no.

### **2. Millicorp Did Not Register with the Commission Until After Securus Filed Its Petition and Thus Never Made Universal Service Contributions.**

Millicorp asserts that it is compliant “to the best of its knowledge, with all applicable FCC orders and regulations.” Millicorp December Letter at 3. It notes specifically that it “is registered with the FCC” and “has made federal Universal Service Fund (USF) contributions[.]” *Id.* It cannot refute, however, the fact that Securus has shown that Millicorp was not registered until July 9, 2009, and that Millicorp/ConsCallHome was operating in “early 2008.” Securus December Letter at 1 (quoting Affidavit of Timothy Meade ¶ 3 (Aug. 27, 2009)). Thus, Millicorp was not compliant with “applicable FCC orders and regulations” for 18 months or more.

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<sup>2</sup> Millicorp itself admits that Securus provides service “pursuant to a contract with an inmate confinement facility[.]” WC Docket No. 09-144, Comments of Millicorp at 3 (Aug. 28, 2009).

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As to its USF contributions, Millicorp states that they were made "through its underlying wholesale provider." Millicorp December Letter at 3. That provider is not identified.

It is telling that Millicorp now promises that it "will be making USF contributions directly to the Universal Service Administration Corporation (USAC)." *Id.* That change of procedure seems curious, for if its reliance on "its underlying wholesale provider" thus far has been satisfactory and "FCC-Compliant," *id.*, there seems no reason to reverse that course now.

Further, the fact that "Millicorp utilizes the same regulatory consulting firm used by a number of inmate phone service providers," Millicorp December Letter at 3, is irrelevant. Hiring a consulting firm is neither proof of nor a substitute for complying with regulatory requirements. Until July 9, 2009, Millicorp apparently believed it had none.

Millicorp's pledge to be compliant with FCC rules is laudable. That pledge cannot, however, negate Millicorp's previous flouting of, at a minimum, the VoIP registration rule. There remains a suggestion that Millicorp sought to comply with its regulatory obligations only after and because Securus contacted Millicorp requesting that it cease diverting inmate calls. In any event, the facts asserted in the Securus Petition and in its *ex parte* letters as to Millicorp's lack of regulatory compliance remain valid record evidence.

### 3. Securus Is Not Blocking Calls to Vonage End Users.

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Millicorp states that Securus is blocking calls to Vonage end users based on two *ex parte* letters filed in August 2009. Millicorp December Letter at 4-5. Millicorp does not represent that it has any independent knowledge of this matter. It nonetheless asserts that Securus "is indeed blocking calls to Vonage and Google Voice." *Id.* at 5.

Millicorp's persistent accusations on this point are baseless and irrelevant. First, Millicorp is factually incorrect. Securus is not blocking calls to legitimate interconnected VoIP service providers. Secondly, Millicorp is not similarly situated to Vonage or Google Voice, and thus the manner in which Securus treats the end users of those entities has no bearing on its Petition. Third, Millicorp has no standing to attempt to vindicate the rights of third parties whom, according to its December Letter, it never has met and does not serve.

Moreover, Millicorp again appears to be harkening to its previous allegations that Securus has "discriminated against" Millicorp/ConsCallHome. Securus reiterates that it is not unlawfully discriminating against either of these entities. To the extent Millicorp is attempting to present Securus with the Hobson's choice of admitting either that it is unlawfully discriminating or that it is wrongfully blocking legitimate interconnected VoIP providers, that attempt is spurious and unavailing. Neither premise is accurate.

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With regard to the two consumer letters on which Millicorp relies, Securus cannot comment on the status or service history of either end user due to privacy concerns. Nonetheless, for Millicorp to rely on these two letters as support for asserting that Securus has an ongoing policy or practice of blocking Vonage end users is folly.

**4. Millicorp/ConsCallHome Does Not Understand, Despite Securus's Many Explanations, Why It Presents a Security Risk.**

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Millicorp's call diversion scheme presents a risk to prison security and public safety. *See* Securus December Letter at 5-6. The re-routing of inmate calls to untraceable terminating phone numbers flouts a fundamental requirement of any secure inmate calling platform. Regardless of whether Millicorp should "be associated with companies that seek to subvert the law, hide identities, or allow customers to connect to prohibited parties[.]" Millicorp December Letter at 7, the fact remains that correctional authorities find call diversion to be a security risk. Securus Petition, Exs. 18-28; Securus Reply Comments, Appendix.

Securus has explained at length why neither Millicorp nor Securus nor any correctional authority can rely on billing records to establish the geographic location of the telephone numbers to which call diversion schemes re-route inmate calls. Securus December Letter at 5-6; Securus Reply Comments at 15-16. As an initial matter, Securus has never seen Millicorp's billing records and cannot opine on whether they accurately disclose the location of any terminating telephone number.

As to Securus's billing records, to reiterate, those records rely on a billing address only and not the registered address for the account holder's telephone number. This fact is particularly true for purposes of the Securus Petition, because Millicorp/ConsCallHome expressly instructs "subscribers" to establish a prepaid account with the inmate telecommunications service provider serving the calling inmate. Attachment 1. Prepaid accounts require only the billing address of the credit card that the account holder will use to establish and/or replenish the account. Securus December Letter at 6; Securus Reply Comments at 16. The address of the terminating phone number never is requested. *Id.* It is thus false for Millicorp/ConsCallHome to assert that it "does not present a security risk" because its "customers are required to provide complete billing name and address information to Securus." Millicorp December Letter at 5.

**5. Millicorp Has No Standing or Basis to Instruct the Commission to Countermand Correctional Policies Banning Cellphone Use.**

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Millicorp boldly includes in its letter a demand that the FCC "consider" whether correctional authorities have the right to prohibit inmates from calling cellphones. Millicorp December Letter

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at 8. In other words, the Florida Department of Corrections ("FL DOC") and the Texas Department of Criminal Justice ("TDCJ") should be countermanded in their longstanding security policies prohibiting state inmates from calling cellphones. Millicorp provides no authority by which the Commission could issue such an edict nor does it explain why these correctional authorities are wrong to view calls to cellphones, which may be prepaid phones having no registered end user, as a security risk.

Further, the issue of cellphone use with regard to inmate calls is not, contrary to Millicorp's assumption, entirely separate from "the current problem in America's prisons regarding contraband cellphones smuggled into correctional facilities." Millicorp December Letter at 8. Cellphones are a security risk whether they are at the originating end or the terminating end of an inmate call. At the originating end, a cellphone allows the calling inmate to avoid being monitored and to call any number without detection or limitation. Thus, to the best of Securus's knowledge, all correctional facilities prohibit inmates from originating calls with contraband cellphones which circumvent the secure inmate telephone system. At the terminating end, a cellphone, like a call diversion scheme, can enable an inmate to call a number that is not registered to any end user or any geographic address. Some correctional authorities likewise deem such calls to be a security risk. Both types of security breaches are serious, and thus both types of cellphone involvement are banned by, for example, the FL DOC and TDCJ.

Millicorp also makes the remarkable assertion that "the record" in this proceeding demonstrates that Securus deliberately "has blocked cellphone numbers due to the numbers being local numbers with associated long distance revenue loss for Securus." *Id.* at 8. Securus does not block cellphone numbers because they are local, and nothing in this record or anywhere else could support that outrageous accusation.

### **6. The Michigan DOC Memorandum Is Not Reliable Precedent.**

Securus has explained that the February 1, 2007, Memorandum from the Michigan Department of Corrections ("DOC"), which Securus appended as Exhibit 31 to its Reply Comments, should not be construed as endorsing call diversion schemes. Securus December Letter at 6-7; Securus Reply Comments at 18-19. Nothing in that Memorandum indicates an understanding of how call diversion schemes, such as Millicorp/ConsCallHome, operate. Rather, the Memorandum plainly is describing legitimate interconnected VoIP service, such as Vonage, and not entities that simply re-route inmate calls to the customers of wireline LECs.

The Memorandum notes that "friends and families are also **switching to VoIP**," Securus Reply Comments, Ex. 31 (emphasis added). This language, written in non-technical terms by Deputy Director Dennis Straub, indicates that called parties are fully changing their local exchange service to VoIP — they are "switching to VoIP" in the way that customers can "switch" long

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distance carriers, not for one call but for all calls. Here, by contrast, the record is clear that no end user could "switch" to ConsCallHome. ConsCallHome cannot provide local exchange service nor carry any type of call other than a re-routed inmate call. Hopfinger Dec. ¶¶ 4-5.

The Memorandum also notes that "this type of service will eventually replace the traditional phone systems." Securus Reply Comments, Ex. 31. Surely Deputy Director Straub could not suppose that intermediary call re-routers could "replace" the LECs. The only reasonable construction of his statement is that legitimate interconnected VoIP providers, like Vonage, have the ability to "replace" LECs and provide end-to-end PSTN transmissions.

Finally, it bears repeating that this Memorandum was released more than a year before Millicorp/ConsCallHome commenced service in "early 2008." Meade Aff. ¶ 3. No reasonable basis exists to conclude that Deputy Director Straub knew that call diversion schemes were operating in Michigan facilities, much less what is Millicorp/ConsCallHome. For all these reasons, it should not be assumed that the Michigan Memorandum was intended to support or accept any call diversion scheme.

It is notable by contrast, however, that the Federal Bureau of Prisons ("FBOP") is blocking call diversion schemes, including ConsCallHome. At least one person who "subscribes" to ConsCallHome has complained that the FBOP is blocking calls placed to a ConsCallHome false "local" number. This fact was corroborated by an employee of the FBOP who explained to the undersigned that ConsCallHome is, according to that agency, simply a means of effecting call forwarding. Call forwarding, he stated, is expressly prohibited by the FBOP regulations for inmate telephones which is available on the FBOP website. **Attachment 2** (available at <<http://www.bop.gov/DataSource/execute/dsPolicyLoc>>). According to the FBOP, any instance in which an inmate dials one number but the call terminates to another number constitutes call forwarding and it will be blocked. The FBOP knows the name "ConsCallHome" and has been blocking it purposefully for months. This affirmative blocking seems far more salient and instructive than the unwarranted inferences that Millicorp draws from the 2007 Michigan Memorandum. It demonstrates that blocking call diversion schemes is necessary and appropriate.

### **7. Millicorp Admits That It Cannot Provide the Security Features Which Correctional Authorities Require.**

Millicorp's previous protestations that the calls it diverts are nonetheless protected by security measures was, as Securus explained, based entirely on the fact that the Securus system is the means by which those security measures are to any extent maintained. Securus December Letter at 8-9. More specifically, the technology Securus has developed and installed in order to detect three-way calls and forwarded calls "is still 'present' on the call," *id.* at 8, because the inmate

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still is speaking into Securus equipment at the facility. Thus, to the extent that diverted inmate calls have some security features in place, it is Securus that is providing them. *Id.* at 9.

Millicorp maintains, however, that it “has deliberately disabled functionality for call forwarding, three-way calling, and multi-voice device ringing.” *Id.* The irony remains, however, that ConsCallHome itself enables call forwarding in the form of VoIP-based re-routing.

Millicorp now admits that it does not “provide[] any of the security functions provided by Securus.” Millicorp December Letter at 9. Millicorp now only attests it “remains proactive and steadfast in seeking to provide as secure a service as reasonably possible in a cost-effective manner.” *Id.* Those attestations cannot, however, substitute for Securus’s contractual obligations to provide a secure calling network. When inmate calls are diverted from the dialed number to some other, untraceable number, correctional authorities believe that the calling network has been breached. Securus Petition, Exs. 18-28. Nothing that Millicorp does — and Securus remains perplexed by its purported “disabling” of call forwarding given that the called parties fully control their CPE — could negate the security risk that its very operation imposes.

### **8. Federal Law Does Not Permit Millicorp/ConsCallHome to Take Traffic From Any Correctional Facility.**

The fundamental point of this docket is that providers of inmate telecommunications service, due to the “exceptional set of circumstances” under which they operate, are permitted to block dial-around calls despite the prohibitions of the Telephone Operator Consumer Services Improvement Act of 1990 (“TOCSIA”). *Policies and Rules Concerning Operator Service Providers*, CC Docket No. 90-313, Report and Order, 6 FCC Rcd. 2744, 2752 ¶ 15 (1991); *see also* Securus Petition at 5-6. This fact has been true since 1991, and the Commission expressly affirmed its decision in 1995. *Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators*, CC Docket No. 94-158, Notice of Proposed Rulemaking and Notice of Inquiry, 10 FCC Rcd. 1533, 1534 ¶ 15 (1995). Under this longstanding precedent, inmates do not have a choice of provider when placing calls.

Millicorp/ConsCallHome and every other call diverter are attempting to be an alternative Operator Service Provider (“OSP”). An OSP, according to TOCSIA, is an entity that can, among other things, arrange for the completion of a payphone call. 47 U.S.C. § 226(a)(7). A call diverter meets this definition, because it intercepts an inmate call in the PSTN, changes the terminating telephone number, and causes the call to be routed to the called party’s LEC and thence to the called party whose terminating number is not recorded by the calling platform. These actions constitute alternative OSP service, and the Commission’s precedent simply does not allow inmates to use alternative OSPs. 10 FCC Rcd. at 1534 ¶ 15; 6 FCC Rcd. at 2752 ¶ 15.

## Arent Fox

This prohibition exists irrespective of the rights that Securus and other legitimate inmate OSPs retain and holders of public contracts.

Nor do the recipients of inmate calls, who typically are the ratepayers, have the right to choose an alternative provider to originate or carry inmate calls. In 1995, the Commission expressly recognized that correctional authorities "grant an outbound calling monopoly to a single IXC serving the particular prison," and that this approach was based on "the special security requirements applicable to inmate calls." *Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, 13 FCC Rcd. 6122, 6156 ¶ 57 (1998).

Not one commenter or participant in this proceeding has argued that the Commission erred in adopting any of the orders or policies cited above. *See* Comments of Millicorp at 11-13; Comments of Citizens United for Rehabilitation of Errants at 13-15 (Aug. 31, 2009).

Neither Millicorp/ConsCallHome nor any other call diverter, to the extent they have participated at all in this proceeding, has provided the Commission with any basis to disrupt either of these policies. As Securus and several law enforcement officials have explained, it is extremely dangerous to allow an inmate call to be terminated to a telephone number other than the one which the inmate dialed. Where, as here, the inmate dials a false "local" number that is not registered to any end user, the matter is doubly dangerous. As such, the reversal of extant dial-around and billed party preference rules in order to accommodate Millicorp/ConsCallHome and its ilk would be not only unfounded but unwise.

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Securus now has addressed and refuted each of defenses and representations that Millicorp/ConsCallHome has lodged against its Petition. Securus thus respectfully asks that its Petition be granted in order to affirm that call diversion schemes cannot be operated for inmate calls. Specifically, as Securus previously has stated, the Commission should hold that inmate OSPs may block attempts to use dial-around calling services or any technology, system, or service that allows the inmate to dial a telephone number different from the telephone number where the call actually terminates, or that masks or renders undetectable the actual terminating telephone number of a call placed by an inmate. WC Docket No. 09-144, Letter from Stephanie A. Joyce, Esq. to Marlene H. Dortch, Secretary of the FCC, at 1 (Nov. 11, 2009).

## Arent Fox

Please do not hesitate to contact me with any additional questions or concerns:  
202.857.6081. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

*Counsel for Securus Technologies, Inc.*

cc: Chairman Julius Genachowski (*via electronic mail*)  
Commissioner Michael Copps (*via electronic mail*)  
Commissioner Robert McDowell (*via electronic mail*)  
Commissioner Meredith Attwell Baker (*via electronic mail*)  
Commissioner Mignon Clyburn (*via electronic mail*)  
Sharon Gillett, Chief, Wireline Competition Bureau (*via electronic mail*)  
Austin Schlick, General Counsel (*via electronic mail*)  
Priya Aiyar, Legal Advisor to Chairman Genachowski (*via electronic mail*)  
Jennifer Schneider, Legal Advisor to Commissioner Copps (*via electronic mail*)  
Christine Kurth, Legal Advisor to Commissioner McDowell (*via electronic mail*)  
Christi Shewman, Legal Advisor to Commissioner Baker (*via electronic mail*)  
Angela Kronenberg, Acting Legal Advisor to Commissioner Clyburn (*via electronic mail*)  
Albert Lewis, Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)  
Julie Veach, Associate General Counsel (*via electronic mail*)  
Diane Griffin Holland, Assistant General Counsel (*via electronic mail*)  
Trent Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau (*via electronic mail*)  
Marcus Maher, Legal Advisor to Chief of the Wireline Competition Bureau (*via electronic mail*)  
Pamela Arluk, Assistant Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)  
Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)

EXHIBIT 2

VULGAMOTT AFFIDAVIT

## AFFIDAVIT OF STACEY VULGAMOTT

STACEY VULGAMOTT, being of proper age and duly sworn, herein states this Affidavit is in full support of Millicorp's position in the above captioned matter. The assertions in this affidavit are true to the best of my knowledge and belief, are based on my personal knowledge and I would testify orally to the same assertions under oath, including testifying at the FCC if necessary.

1. My name is Stacey Vulgamott, and I reside at 994 Chadwick Lane, Medina, Ohio 44256.
2. My boyfriend is incarcerated at Allegheny County Jail, and has been since September 9, 2009.
3. After spending exorbitant amounts of money on telephone calls with my boyfriend, and researching less costly alternatives to Correctional Billing Services, (CBS), a division of Securus, I became a customer of Millicorp's product, ConsCallHome (CCH) solely for purpose of saving money on telephone calls on or about February 10, 2010. It was and is my understanding Millicorp is a FCC registered and regulated VoIP provider.
4. My boyfriend followed CBS instructions and procedures in order to call me on my CCH number, yet was unable to call me on that number. I had several conversations with CBS and was unable resolve this matter. I was given contradictory and false information on numerous occasions.
5. On February 15, 2010 I was informed by CBS there was a "fraud block" on the number. I contacted Millicorp, and they provided me with an ATA device in order to resolve the issue, on February 26, 2010. I set up the ATA device for the sole purpose of being fully compliant with all rules and regulations of CBS.
6. There was a period of time for a few weeks when my boyfriend was able to call me on occasion using the CCH number with the connected ATA device and then the calls would be again blocked to my number.
7. On April 3, 2010, I contacted CBS customer service via chat in order to find out why they had blocked my number again. I notified CBS I had an ATA device that is connected to the physical line at the physical address where I live and that I had E911 enabled on the line, and as such, was in compliance with all regulations. Despite this, the representative insisted there was a remote call forwarding block on my number. See Exhibit "A", attached hereto and incorporated by reference.
8. On April 10, 2010, I called CBS, using the phone hooked into the ATA device. I spoke with "Isabel", who informed me the line was "clear" and all I had to do was add money to reopen the line. I did so and my boyfriend called me 3 times, and then CBS blocked the number. I again called CBS, spoke with "Claudia", who after much arguing, insisted it was the facility, not CBS causing the block to my number. I then spoke with a supervisor, "Benjamin", who

indicated I had to fax proof of ownership for this number. Per his instructions, all required documentation was faxed to the Escalation Department on April 15, 2010.

9. In April 17, 2010, I again contacted CBS via chat, was given totally contradictory information and then asked which phone company I was with. I was then told "Well, I have a BIG RED NOTE on your account that says DO NOT UNBLOCK THIS LINE. For any reason.....and "If you are with VONAGE, MAGIC JACK, CONSCALLHOME, etc.....You won't get calls.....WE don't allow services that utilize VoIP." See Exhibit "B", attached hereto and incorporated by reference.
10. I have spent in excess of \$4500 on telephone calls through CBS in seven months. This is totally outrageous and has caused financial hardship. I have done everything CBS has required of me, followed all rules and regulations, and yet CBS persists in blocking my CCH number simply for the purpose of their financial gain.

FURTHER AFFIANT SAYETH NOT

*Stacey L. Vulgamott*

STATE OF OHIO

)

)

COUNTY OF MEDINA

)

SUBSCRIBED AND SWORN to before me this 10 day of May 2010, by:

Stacey L. Vulgamott

WITNESS my hand and official seal.

(SEAL)

Brett Robertson

Notary Public



Brett Robertson  
Notary Public - State of Ohio  
My Commission Expires 12-19-2010

My commission expires on 12/19/2010

EXHIBIT A

CBS INSTANT SERVICE ONLINE CHAT – 4/5/10

You have been connected to Nery S..

**Nery S.:** "Thank you for contacting Correctional Billing Services, my name is Nery how can I assist you?"

**Stacey Vulgamott:** I previously closed my account and asked for a refund. Is it possible to open this account back up, to what it was before I closed it?

**Nery S.:** Yes, you can re-open the account.

**Stacey Vulgamott:** How?

**Nery S.:** I can do it for you.

**Nery S.:** May I have your area code and telephone number along with your four digit passcode please?

**Stacey Vulgamott:** (###) ###-#### ##97

**Nery S.:** Thank you, one moment while I access your account.

**Nery S.:** Thank you for waiting. Unfortunately the system is not allowing me to re-open your account. You will have to fax a copy of your telephone bill for proof of address to 972-277-0714.

**Nery S.:** You will also need to provide a valid telephone number for the state you live in.

**Stacey Vulgamott:** Why? I have an analog phone connected to an ATA Device which is no different than using Vonage. Per FCC you can not block this number so please unblock this number.

**Nery S.:** Unfortunately I am not able to unblock the number even if I wanted to. The system will not allow me to do so.

**Nery S.:** Once you provide the information needed the department in charge of this issue will unblock it for you.

**Stacey Vulgamott:** I don't understand this. I have an account with you and I have a valid phone number so there should be no issue!

**Nery S.:** Our fax number is 972-277-0714.

**Stacey Vulgamott:** I don't have paperwork to send, this is not how the ATA device works, so you need to unblock my line. I can call you from the analog line now if you want me to prove that.

**Nery S.:** Please call 1800-844-6591 if you wish to speak to a live agent.

**Stacey Vulgamott:** Thanks for NO HELP!

**Nery S.:** Thank you for contacting Correctional Billing Services.

Thank you for using InstantService. You may now close this window.

EXHIBIT B

CBS INSTANT SERVICE ONLINE CHAT – 4/17/10

**Cassandra W:** "Thank you for contacting Correctional Billing Services, my name is Cassandra how can I assist you?"

**Stacey Vulgamott:** I see my line is still blocked but I faxed proof of ownership to the Escalation Department on Thursday. So, can you please unblock my line?

**Cassandra W:** May I have your area code and telephone number along with your four digit passcode please?

**Stacey Vulgamott:** (###) ###-####-###97

**Cassandra W:** Thank you, one moment while I access your account.

**Cassandra W:** We are currently showing no fax inquiries remaining in our queue. We have not received a fax on this account.

**Cassandra W:** We recommend to if convenient send to our offices at 972 277 0714 . If convenient to you, we can also accept this by e-mail box, customer\_service@correctionalbillingservices.com

**Cassandra W:** If the copy of the bill has already been scanned onto the computer, we can accept through our e-mail box as well.

**Cassandra W:** As soon as we receive copy of a proof of ownership we can begin to work this inquiry.

**Stacey Vulgamott:** It was sent on Thursday at 3:55 pm to (###) ###-####- so how can you not have it????

**Stacey Vulgamott:** I feel like I am jumping through hoops with you just to have a legal line in my house available for my fiance.

**Cassandra W:** Ok just moment Stacey...

**Cassandra W:** Ok Stacey, what exactly are you requesting? I'm seeing a lot of different notes on your account and I'm just really not sure what you're wanting?

**Stacey Vulgamott:** I was told by a supervisor that I needed send proof of ownership to the "back office" on Thursday so my company faxed this to the Escalation dept as we were told on Thursday at 3:55 to (###) ###-####-####4 so how hard is it to know what I want, I have been MORE than clear!!! I need my line unblocked since I complied by sending my bill for my line.

**Cassandra W:** Which I get, but I see notes on BOTH accounts (which are both in your name) that say you requested refunds, and they were denied because of remote call forwarding, which we don't allow, and there's a lot of other stuff and regardless of whether you sent in proof of ownership, i may NOT be able to unblock the line for you.

**Stacey Vulgamott:** This is ridiculous and I am NOT going away anytime soon. I specifically talked to a Supervisor on Thursday to know what I had to do and he said I had to fax my bill for proof of ownership which I then did so I don't know what else I need to do. I am not going to just give up on this!!!! I still have plenty of money on the open account for (###) ###-####- and I have now proven I own this number. I really don't see your issue now.

**Cassandra W:** Ok. Yes I do see plenty of funds on that account. Can you give me the passcode and address on the account? If it's the same...yeah, I'll go ahead and ask my sup if I can just remove the block.

**Stacey Vulgamott:** ##### address is ### Chadwick Lane Medina, OH #####6.

**Cassandra W:** Ok then I guess your fax was dealt with, I guess they did change the info, so you're all good. I don't understand either why they would still be blocking you :-\ Which phone company are you with just out of curiosity?

**Stacey Vulgamott:** Why does it matter, you have my faxed bill I don't see why you can't just unblock my line. I have done everything I was supposed to do.

**Cassandra W:** Which phone company are you with just out of curiosity?

**Stacey Vulgamott:** I don't feel I need to tell you that

**Cassandra W:** Ok. Well I have a BIG RED NOTE on your account that says DO NOT UNBLOCK THIS LINE. For any reason.

**Cassandra W:** If you are using ANY phone company that utilizes REMOTE CALL FORWARDING...or any kind of forwarding features....that's not allowed.

**Cassandra W:** YOU won't get calls. Period.

**Stacey Vulgamott:** That is ridiculous you just told me that you have the proof and you don't know why it is blocked and now you are changing your story. What kind of crap is that?

**Stacey Vulgamott:** It is not call forwarding...it is a physical line in my home that I can use and it has E### and I complied with sending my bill i.

**Cassandra W:** And yet you will not tell me which phone company you are with?

**Stacey Vulgamott:** THIS IS NOT CALL FORWARDING...it is the same as VONAGE, which is not call forwarding.

**Cassandra W:** If you are with VONAGE, MAGIC JACK, CONSCALLHOME, etc... You won't get calls.

**Stacey Vulgamott:** I showed proof of ownership of this line.

**Cassandra W:** We don't allow any services that utilize VOIP (Voice Over IP)

**Stacey Vulgamott:** This is BULLSHIT and is against FCC Regulations and I complied with my part.

**Cassandra W:** "Thank you for contacting Correctional Billing Services, my name is Cassandra how can I assist you?"

**Cassandra W:** Thank you for contacting Correctional Billing Services. I hope we were able to provide you with fast and reliable service today.

Thank you for using InstantService. You may now close this window.